

AG Contract No.: KR99-2483TRN
ADOT ECS File No. JPA 99-169
Project No. CM-SCT-0(11)P
TRACS No.: SS447 01C
Project: Indian School Rd. @ Hayden Rd.
Additional turn lanes
COS Project No.: S7002
COS IGA No.: 2001-028-COS

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF SCOTTSDALE

THIS AGREEMENT is entered into 30 July, 2001, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF SCOTTSDALE, acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. Congress has authorized appropriations for, but not limited to, the construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.

4. Such project within the boundary of the City has been selected by the City; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The City, in order to obtain federal funds for the construction of the project, is willing to provide City funds to match federal funds in the ratio required or as finally fixed and determined by the City and FHWA, including actual construction engineering and administration costs (CE).

NO 24795
Filed with the Secretary of State
Date Filed: 07/30/01

Betsy Boyles
Secretary of State

B. Vicky J. Haenewald

7. The work embraced in this agreement and the estimated costs are as follows: Construction of additional left and right turn lanes at Hayden Road and Indian School Road.

Estimated Construction Contract Cost	\$2,935,000.00
Project Cost (incl. 15% CE/Admin. costs)	\$ 440,000.00
5% Surcharge on Above Cost	<u>\$ 169,000.00</u>
Total	\$3,544,000.00
Federal Aid Funds @ 94.3% of \$1,800,000.00	\$1,697,400.00
City Funds @ 5.7% of \$1,800,000.00	\$ 102,600.00
City Funds @ 100% of the balance	<u>\$1,744,000.00</u>
Total	\$3,544,000.00*
Subtotal Federal Aid Funds	\$1,697,400.00
Subtotal City Funds	<u>\$1,846,600.00</u>
Total	\$3,544,000.00

* - This includes a five percent surcharge per Local Government Engineer Memo of October 1996.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction, the City will and does hereby designate the State as authorized agent for the City. The State hereby agrees to be authorized agent for the City, and with the aid and consent of the City and the FHWA, will proceed to advertise for, receive and open bids, and subject to the concurrence of the City and the FHWA, enter into a contract with a firm on behalf of the City to whom the award is made for the construction of the project; such project to be performed, completed, accepted and paid for in accordance with the instructions and requirements of the City and the Standard Specifications for Road and Bridge Construction of the Arizona Department of Transportation. The State will enter into a Project Agreement with FHWA covering the work embraced in said construction contract and will request the maximum federal funds available, including construction engineering and administration costs. Should costs exceed the maximum federal funds available, it is understood and agreed that the City will be responsible for any overage.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the City shall be obligated to incur and will pay for said increased costs.

2. Prior to the solicitation of bids, the City shall deposit funds with the State in the amount determined to be necessary to match federal funds in the ratio required. The City is and will be entirely responsible for all costs incurred by the State in performing and accomplishing the work as set forth in the agreement whether covered by the Federal funding or not.

3. The City shall acquire the necessary right-of-way and hereby certifies that all necessary rights-of-way have been or will be acquired prior to advertisement for bid.

4. The City shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been or will be removed therefrom, prior to the start of construction.

5. The City shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use.

6. Upon completion of construction, the City shall provide for, at its own cost and as an annual item in its budget, proper maintenance, including, but not limited to, traffic signals, signs, islands, curbs and markings necessary for the purpose of regulating, warning and guiding traffic.

7. The City shall mark and sign school crossings and railway-highway grade crossings in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

8. By such regulation as it may by ordinance provide, the City shall regulate parking and not permit vehicles to be left on the street in any manner other than at and parallel with the curb and to restrict parking so as to prevent conflicts with moving traffic at intersections and at such other locations as necessary.

9. The FHWA will participate in the cost of construction supervision at the pro rata established in the Project Agreement for up to 15 percent of the cost of construction. Construction supervision costs not participated in by FHWA shall be borne by the City.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance or negligent performance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees, shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. The cost of the design, construction and construction engineering work covered by this agreement is to be borne by FHWA and City, each in the proportion prescribed or as fixed and determined by the FHWA as stipulated in this agreement. Therefore, City agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. The cost of the construction and construction engineering work covered by this agreement is to be borne by FHWA and City, each in the proportion prescribed or as fixed and determined by the State, the City and the FHWA as stipulated in this agreement. Therefore, City agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

4. This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual, unless assumed by another governmental entity.

5. This agreement shall become effective upon filing with the Secretary of State.

6. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

7. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

8. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation
Joint Project Administration
205 S. 17th Avenue - 616E
Phoenix, AZ 85007

City of Scottsdale
Capital Project Management
S7002 Project Manager
7447 E. Indian School Road # 205
Scottsdale, AZ 85252-7903

10. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF SCOTTSDALE

By Mary Manross
MARY MANROSS
Mayor

STATE OF ARIZONA

Department of Transportation

By Catherine J. Hegel
CATHERINE J. HEGEL
Contract Administrator

ATTEST:

By Sonia Robertson
SONIA ROBERTSON
City Clerk

99-169.doc
27Oct99
Revised/21Sep2000
Revised/27Dec2000
Revised/21Mar2001

APPROVAL OF THE CITY OF SCOTTSDALE ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION and the CITY OF SCOTTSDALE, and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this Ninth day of May, 2001.



City Attorney

RESOLUTION

BE IT RESOLVED on this 15th day of October 1999, that I, the undersigned MARY E PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the City of Scottsdale for the purpose of defining responsibilities for the acquisition of federal funds for the use and benefit of the City for the construction of additional turn lanes located at Indian School Road and Hayden Road.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contractor Administrator for approval and execution.



DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group

for MARY E. PETERS, Director

RESOLUTION NO. 5833

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO INTERGOVERNMENTAL AGREEMENT NO. 2001-028-COS BETWEEN THE CITY OF SCOTTSDALE AND THE STATE OF ARIZONA, FOR THE PURPOSE OF CONSTRUCTING INTERSECTION IMPROVEMENTS ON INDIAN SCHOOL ROAD FROM THE INDIAN BEND WASH TO 81ST STREET.

WHEREAS, the Arizona Revised Statutes provide that public agencies may enter into intergovernmental agreements for joint or cooperative action; and

WHEREAS, the Charter of the City of Scottsdale authorizes the City to enter into intergovernmental agreements with various public agencies; and

WHEREAS, the City and the State of Arizona desire to cooperate and jointly complete the improvements.

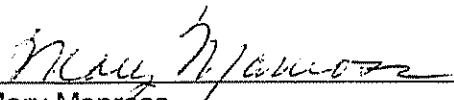
NOW, THEREFORE, LET IT BE RESOLVED by the Council of the City of Scottsdale, Arizona as follows:

Section 1. The Mayor is authorized to execute, on behalf of the City, IGA No. 2001-028-COS, which defines the terms by which (1) the State of Arizona will contract for and manage the construction of the improvements, and (2) the City will reimburse the State of Arizona for those costs associated with the improvements that are the responsibility of the City, as follows:

\$ 102,600.00	City of Scottsdale matching funds
\$ 440,000.00	Construction supervision
\$ 1,304,000.00	Improvements not eligible for Federal Aid
\$ 1,846,600.00	Total

PASSED AND ADOPTED by the Council of the City of Scottsdale this 4th day of June, 2001.

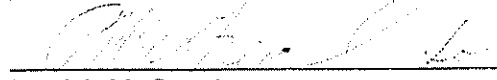
CITY OF SCOTTSDALE


Mary Manross
Mayor

ATTEST:


Sonia Robertson
City Clerk

APPROVED AS TO FORM:


Patrick McGreal
City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

JANET NAPOLITANO
ATTORNEY GENERAL

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INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR99-2483TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED July 18, 2001.

JANET NAPOLITANO
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:et/694055

Enc.